

MINUTES
PLANNING and POLICY ADVISORY COMMITTEE
Thursday, May 3, 2007
Wisconsin State Bar Center
Madison, WI

Members Present: Hon. C. Ashley, Hon. A. Bates, Hon. M. Bohren, Mr. O. Boldt, Hon. R. Brown, Ms. K. Deiss, Ms. H. Dugan, Mr. J. Dwyer, Hon. B. Gordon, Ms. L. Hoskins, Mr. S. Johnson, Hon. E. Leineweber, Hon. P. Madden, Hon. W. Marik, Hon. J.D. McKay, Comm. D. McManus, Hon. W.M. McMonigal, Hon. D. Nispel, Hon. W. Stewart, Mr. M. Tobin, Mr. J. Voelker, Mr. J. Walsh, Mr. J. Zakowski

Members Absent: Chief Justice S. Abrahamson, Hon. D. Bain, Hon. T. Dugan, Hon. D. Nicks, Hon. R. Nuss

Guests and Staff Present: Ms. D. Brescoll, Ms. S. Gervasi, Mr. M. Neimon, Ms. E. Slattengren

Meeting Materials Distributed:

Prior to Meeting:

1. May Meeting Agenda
2. November 2006 Meeting Minutes
3. February 2007 Written Update Report
4. Videoconferencing Subcommittee Final Report and Appendix Items

At Meeting:

5. Summary of 2007-08 Legislation of Interest
6. 2007 Judgeship Bill

1. Welcome and Introductions

Judge McMonigal, PPAC Vice-Chair, led an introduction of PPAC members, guests and staff.

2. Previous Meeting Minutes

The minutes from the November 2006 PPAC meeting were approved as submitted and the PPAC February 2007 Written Update Report, provided in lieu of the February meeting, was approved as submitted.

3. Videoconferencing Subcommittee

Judge McMonigal and Judge Leineweber provided an overview of the Videoconferencing Subcommittee's final report and proposal (see meeting handouts). Judge McMonigal explained that the proposed rule or legislation is structured in a way that provides guidance for more aggressive use of videoconferencing in court proceedings but outlines necessary cautions. Both judges explained that the subcommittee developed the proposal in an effort to provide clearer authority to judges on videoconferencing use but gives specific criteria so the rights of individuals are protected. The subcommittee was a multi-disciplined group that had many varying views and opinions on the best way to move forward with videoconferencing guidance. The final report and proposal is the result of nearly two years of work and compromise to achieve a quality recommendation to PPAC. The subcommittee was able to develop a proposal that encourages videoconferencing use without forfeiting constitutional rights. The proposal is intended to provide minimum standards to judges for expanded use but still to reserves their unilateral prerogative to deny its use in a given case.

Judge Brown inquired as to whether or not the proposal included the Court of Appeals. Judge McMonigal replied that the initial focus is the trial courts but that the proposals language is general enough to also apply to the Court of Appeals.

PPAC members were also reminded that the videoconferencing subcommittee updated Bridging the Distance in 2005 which is intended to serve as a guide on technical standards related to videoconferencing in the courts. This guide is frequently used to assist in court facility updates when new videoconferencing systems are being purchased. Ms. Deiss reported that Washington County referred to Bridging the Distance in the development of the technology systems in its new justice center.

Judge Marik inquired as to why there was such an extensive "Intent" section as part of the actual proposal rather than including this as part of the "comments" and wondered if this created more possibility for argument. Judge Leineweber explained that the "Intent" section was important because it summarized about 18 months worth of debate among the subcommittee members so readers of the Rule or legislation got a sense of the bigger philosophical issues that exist. Judges Leineweber and McMonigal will further consider whether the "Intent" section should remain as part of the actual proposal narrative or be included as a "comment."

Judges McMonigal and Leineweber explained that the subcommittee created the proposal and was looking to PPAC for guidance on whether to move it forward as a SCR or through the legislative process. The subcommittee felt a SCR would be quicker and more flexible create a platform for courts to gain experience in videoconferencing but a statute could potentially have

more strength and permanence. Mr. Voelker reported that it was his sense from the Chief Justice that a SCR proposal would be the best way to proceed at this point. Ms. Gervasi asked if the public defender representatives on the subcommittee were in support of this proposal and if not, would the courts be opening itself up to a lobbying effort against this if we opted for the legislative route. Judge McMonigal stated that the proposal was supported by the public defenders on the subcommittee and they assisted in its creation. He also stated that they raised some very appropriate and important issues throughout the process which have been adequately addressed in the proposal.

PPAC voted and a motion was carried to move the proposal forward through the Supreme Court Rule petition process.

It was suggested that a draft be circulated among the Committee of Chief Judges, the State Bar and any other related groups.

4. Court Security

Judge Bohren reported that the new PPAC Subcommittee on Court Security had been formed he will co-chair this subcommittee with Judge Sarah O'Brien of Dane County. The first meeting of this new subcommittee will be on June 7th and the its primary focus will to review the objectives related to Court Security in PPAC's "Critical Issues" plan and make recommendations to PPAC on these objectives.

5. Planning Subcommittee

Commissioner Darcy McManus gave the Planning Subcommittee report in Judge Kluka's absence. Commissioner McManus reported that the Planning Subcommittee met a few weeks ago and is at the beginning of the new planning cycle. Before proceeding into the next cycle, the subcommittee had some questions for PPAC and is requesting guidance. Commissioner McManus reminded PPAC members that when the Planning Subcommittee was formed in 2000 part of its charge was also long-range planning. This is something they are currently not doing as the "Critical Issues" report is a two-year operational plan that is aligned with the budget cycle. In addition, the subcommittee would like to reiterate that management of the planning activities is equally as important as the development of the plan. It is PPAC's role to ensure that the plan is operational and progress is communicated to stakeholders. Making sure that stakeholders understand the progress on the priorities is a critical component in the development of a new plan.

Judge McKay, a member of the planning subcommittee, stated that there needs to be some vehicle at our subsequent PPAC meetings that informs PPAC members about where we stand in regard to the objectives and measures of the plan. Judge McKay suggested we have a plan management update on every PPAC meeting agenda so information can be shared and commentary on the current operational plan is promoted. Ms. Slattengren also reiterated the importance of PPAC members in serving as liaison to the various groups they represent and reporting progress on initiatives outside of PPAC meetings. It is the responsibility of PPAC members to be informing their constituencies of progress.

PPAC further discussed the Planning Subcommittee's question about long-range planning. Mr. Voelker agreed that long-range planning is important and the last long-range plan was "Framework for Action" developed in 1994. PPAC members felt it was important to consider doing both short and long-range planning and discussed how a long-range process could be incorporated into the current process and whether it was the role of and fair to ask the planning subcommittee to take on both.

A motion was carried to ask the planning subcommittee to make a recommendation as to how both short and long-range planning could be accomplished, specifically the process that would need to be undertaken and the necessary resources that would be needed to carry out both short and long-range planning for the court system.

A second motion was carried to add an item called "planning management" on the PPAC standard agenda for future meetings so PPAC will actively be aware of and report on the progress of the planning objectives.

6. Effective Justice Strategies Subcommittee

Judge Ashley reported that the subcommittee officially changed its name from Alternatives to Incarceration to Effective Justice Strategies. The web site resource created by the subcommittee has been recently updated and houses a Wisconsin directory or problem solving court and criminal justice coordinating council contacts and links.

The link to this site is:

<http://www.wicourts.gov/about/organization/programs/alternatives.htm>

Judge Ashley also reported that the subcommittee has partnered with the Wisconsin Sentencing Commission on a project to develop an online directory listing of alternative programming that is occurring throughout the Wisconsin criminal justice system, including but not limited to the court system. Much of the information to be included in is this directory started with promising practices being reported to the Chief Justice throughout her 72-county tour.

Lastly, Judge Ashley reported on the progress of the Assess, Inform, and Measure (AIM) pilot project. Five counties have volunteered to be AIM pilots. They are: Eau Claire, Iowa, La Crosse, Marathon and Portage. The pilots are all at different phases in their readiness to implement the project because there is not additional funding support and are hoping to do so in the near future. Judge Ashley reported that the Governor's budget did include some funding for AIM, specifically earmarked for Milwaukee County, to be administered by the Wisconsin Office of Justice Assistance. At this time Milwaukee is not an AIM pilot project site but it will be considered further in the future if the Governor's budget proposal remains intact. Mr. Voelker also reported that the JEHT Foundation, a private foundation, had expressed interest in Wisconsin on the topic of alternatives to incarceration and they are currently considering a proposal that would assist with the AIM project and other effective justice strategy initiatives.

Judge Ashley reported that that subcommittee has been in existence since 2004 and has decided to change some of its membership and bring in some new people on board as they consider some of the objectives in the "Critical Issues" plan. The subcommittee is also revisiting the idea of

recommending a state level criminal justice coordinating council and will discuss this further at the next PPAC meeting.

Mr. Tobin asked if there are any other models that PPAC members were aware of that assist in estimating workload for specialized courts and provide some uniformity of how cases are measured and whether or not these methods are truly cost effective in the long run. Mr. Zakowski stated that this was information he was interested in as well.

7. Budget Update

Ms. Brescoll reported that the Legislature's Joint Committee on Finance met on the courts budget and approved everything that was presented in the Governor's budget.

Some specifics that were approved were the requiring of a qualified interpreter with increased county funding; the four-year project approval of the Court Improvement program which included match money for a state position; permitting fees for use of electronic filing only; language and position approval for the uniform chart of accounts and two-year auditor position recommended by the PPAC Court Finance subcommittee several years ago; and lastly, approval of a permanent state level justice initiatives coordinator position that will work specifically on the topics of self-represented litigants and alternatives to incarceration/drug and alcohol programming.

Minimal funding for court security, as modified through the Governor's budget, was also approved.

Ms. Brescoll also reported that there is a bipartisan initiative to re-create the Judicial Council as a separate agency with one staff attorney.

8. Legislative Update

See legislative Update handouts distributed at the PPAC meeting.

Ms. Rottier was not in attendance so Mr. Voelker reviewed the handouts. The first handout was a summary of the 2007-08 legislation of interest, which is a listing of the bills of interest to the Legislative Committee of the Judicial Conference, the status of the bills and the position the committee has taken. This document will be continually updated and posted on the intranet. The other handout was the judgeship bill, which was the result of the weighted caseload study. This bill requests additional circuit court branches in Barron, Chippewa, Dodge, Green, Juneau, and St. Croix counties.

9. Other

Plea Colloquies:

Judge Brown reported that as a result of the recommendation from the PPAC Court Efficiencies Subcommittee last year, there will be a session on plea colloquies at the upcoming Criminal Law and Sentencing Institute. The session will be interactive and include transponders and questions for participants and will be a facilitated discussion. Professor Dave Schultz will also be one of the presenters.

Judicial Conference:

Ms. Slattengren reported that the PPAC Planning Subcommittee will lead a plenary session at the Judicial Conference this year as part of its information gathering process. Last year, two PPAC subcommittee's lead topic-specific break-out sessions. PPAC will not have topic breakout sessions this year.

Membership:

Mr. Voelker updated PPAC members on the term limit policy and noted that this would be the last meeting for several PPAC members. PPAC members recognized and thanked Mr. John Zakowski, Mr. Scott Johnson and Judge Richard Brown for their service and dedication.

Mr. Voelker also informed PPAC members that it was the last meeting for PPAC-Vice Chair Judge William McMonigal. Mr. Voelker noted many of Judge McMonigal's accomplishments as a PPAC member for more than 10 years. PPAC recognized Judge McMonigal's dedication and years of service.

The future meeting schedule is as follows:

- **Thursday August 9th, 2007 @ 10:00.** Joint meeting with Planning Subcommittee.
Wisconsin State Bar Center
- **Thursday, November 8, 2007 full day meeting**
10:00-12:00 Joint meeting with the Supreme Court (tentative)
1:00-3:00 Joint meeting with the Planning Subcommittee